

## ***REMARKS***

This is a full and timely response to the outstanding Office action mailed April 21, 2004. Upon entry of the amendments in this response claims 1-22 are pending. More specifically, claims 1, 3, 4, 8, 12, 14, and 17 are amended. These amendments are specifically described hereinafter. It is believed that the foregoing amendments add no new matter to the present application.

### **I. Present Status of Patent Application**

Claims 1, 2, 8-13, 15, and 16 are rejected under 35 U.S.C. §102(e) as allegedly anticipated by *Cole* (U.S. Patent No. 6,545,550).

Claims 3-7, 14, and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 20-22 are allowed.

### **II. Miscellaneous Issues**

Applicants greatly appreciate the Examiner's statement in the previous Office Action in which claims 20-22 are allowed and in which claims 3-7, 14, and 17-19 have been indicated as allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims. Applicants have made amendments to incorporate these limitations.

### **III. Rejections Under 35 U.S.C. §102(e)**

#### **A. Claims 1 and 2**

The Office Action rejects claims 1 and 2 under U.S.C. §102(e) as being anticipated by *Cole* (U.S. Patent No. 6,545,550). For the reasons set forth below, Applicant respectfully traverses the rejection.

**Independent claim 1**, as amended, recites:

1. A first digital subscriber line (DSL) modem communicatively coupled with a second DSL modem, the first DSL modem comprising:

a digital signal processor configured:  
to selectively configure at least one system parameter in response to an  
identification of a manufacturer of the second DSL modem; and  
***to selectively configure at least one system parameter in response to  
measured system conditions***; and  
a memory device communicatively coupled to the digital signal  
processor configured to store the at least one system parameter, wherein the  
system parameter is pre-configured to optimize data communications between  
the first and second DSL modems.

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 1 as amended is allowable for at least the reason that *Cole* does not disclose, teach, or suggest at least **selectively configuring at least one system parameter in response to measured system conditions**. The cyclic prefix adjustment disclosed in *Cole* does not take measured system conditions into account.

Notwithstanding, the undersigned has reviewed the entirety of the *Cole* patent, and has failed to identify any such teaching anywhere within this reference. Therefore, *Cole* does not anticipate claim 1, and the rejection should be withdrawn.

Because independent claim 1 as amended is allowable over the prior art of record, dependent claim 2 (which depends from independent claim 1) is allowable as a matter of law for at least the reason that dependent claim 2 contains all the steps/features of independent claim 1. *See Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claim 2 is patentable over *Cole*, the rejection to claim 2 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claim 2 recites further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the prior art of record. Hence there are other reasons why dependent claim 2 is allowable.

B. Claims 8-11

The Office Action rejects claims 8, 9, 10, and 11 under U.S.C. §102(e) as being anticipated by *Cole* (U.S. Patent No. 6,545,550). For the reasons set forth below, Applicant respectfully traverses the rejection.

**Independent claim 8** as amended recites:

8. A digital subscriber line (DSL) communication system, comprising:  
a first modem configured to:  
appropriately apply at least one system parameter pre-configured to optimize data communications with DSL modems originating from a specific manufacturer; and  
appropriately apply at least one system parameter in response to measured system conditions; and  
a two-wire pair telephone line communicatively coupled to the first modem; and  
a second modem communicatively coupled to the two-wire pair telephone line.

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 8 as amended is allowable for at least the reason that *Cole* does not disclose, teach, or suggest at least **appropriately applying at least one system parameter in response to measured system conditions**. The cyclic prefix adjustment disclosed in *Cole* does not take measured system conditions into account.

Notwithstanding, the undersigned has reviewed the entirety of the *Cole* patent, and has failed to identify any such teaching anywhere within this reference. Therefore, *Cole* does not anticipate claim 8, and the rejection should be withdrawn.

Because independent claim 8 as amended is allowable over the prior art of record, dependent claims 9-11 (which depend from independent claim 8) are allowable as a matter of law for at least the reason that dependent claims 9-11 contain all the steps/features of independent

claim 8. *See Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claims 9-11 are patentable over *Cole*, the rejection to claims 9-11 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 8, dependent claims 9-11 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the prior art of record. Hence there are other reasons why dependent claims 9-11 are allowable.

#### C. Claims 12, 13, 15 and 16

The Office Action rejects claims 12, 13, 15 and 16 under 35 U.S.C. §102(e) as being anticipated by *Cole* (U.S. Patent No. 6,545,550). For the reasons set forth below, Applicant respectfully traverses the rejection.

**Independent claim 12** as amended recites:

12. A digital subscriber line (DSL) modem, comprising:  
means for applying a default variable identifying the manufacturer of a communicatively coupled remote DSL modem;  
***means for selectively applying at least one system parameter in response to measured system conditions***; and  
means for selectively applying at least one system parameter during initial DSL system training in response to the identified manufacturer of the remote modem.

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 12 as amended is allowable for at least the reason that *Cole* does not disclose, teach, or suggest at least a **means for selectively applying at least one system parameter in response to measured system conditions**. The

cyclic prefix adjustment disclosed in Cole does not take measured system conditions into account.

Notwithstanding, the undersigned has reviewed the entirety of the *Cole* patent, and has failed to identify any such teaching anywhere within this reference. Therefore, *Cole* does not anticipate claim 12, and the rejection should be withdrawn.

Because independent claim 12 as amended is allowable over the prior art of record, dependent claims 13, 15, and 16 (which depend from independent claim 12) are allowable as a matter of law for at least the reason that dependent claims 13, 15, and 16 contain all the steps/features of independent claim 12. See *Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claims 13, 15, and 16 are patentable over *Cole*, the rejection to claims 13, 15, and 16 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 12, dependent claims 13, 15, and 16 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the prior art of record. Hence there are other reasons why dependent claims 13, 15, and 16 are allowable.

#### **IV. Cited Art Made of Record**

The cited references made of record have been considered, but are not believed to affect the patentability of the presently pending claims. Other statements not explicitly addressed herein are not admitted.

#### ***CONCLUSION***

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-22 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic

conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel R. McClure", written over a horizontal line.

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